

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hilary Hudson	Team: Team # 3	CCRB Case #: 200801117	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 01/17/2008 7:30 PM	Location of Incident: East 220th Street and Bronxwood Avenue; the 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 7/17/2009	EO SOL 7/17/2009	
Date/Time CV Reported Wed, 01/23/2008 10:31 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 01/23/2008 10:32 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Raso	18576	933235	047 PCT
2. SGT Thomas Casey	01549	918830	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gennaro Russo	12523	935665	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Raso	Force: PO Michael Raso pointed his gun at § 87(2)(b) in the vicinity of East 220th Street and Bronxwood Avenue in the Bronx.	
B.POM Michael Raso	Abuse: PO Michael Raso stopped § 87(2)(b) in the vicinity of East 220th Street and Bronxwood Avenue in the Bronx.	
C.SGT Thomas Casey	Abuse: Sgt. Thomas Casey authorized the strip-search of § 87(2)(b)	
D.POM Michael Raso	Force: PO Michael Raso used force against § 87(2)(b) at the 47th Precinct stationhouse.	

### Synopsis

§ 87(2)(b) filed his complaint with the CCRB on-line on January 23, 2008 (Enclosure 5a-c). On January 17, 2008, at approximately 7:30 PM, § 87(2)(b) was walking in the vicinity of East 220<sup>th</sup> Street and Bronxwood Avenue in the Bronx when he observed PO Michael Raso and PO Gennaro Russo in a marked police car. § 87(2)(b) changed directions at the sight of their RMP. PO Raso drove over to § 87(2)(b) and because he could not see § 87(2)(b)'s hands as § 87(2)(b) was not facing the RMP, PO Raso exited the car, pointed his gun at § 87(2)(b) and then said, "Police" [Allegation A and B]. § 87(2)(b) dropped an unknown amount of marijuana on the ground and began running, so PO Raso and PO Russo chased after him. They caught § 87(2)(b) and he was arrested for § 87(2)(b). They transported § 87(2)(b) to the 47<sup>th</sup> Precinct stationhouse for arrest processing. Sgt. Casey authorized a strip-search of § 87(2)(b) [Allegation C] and PO Raso conducted the strip-search. Sgt. Casey and PO Russo observed the strip-search. During the strip-search, § 87(2)(b) twice attempted to hit PO Raso, so PO Raso pushed § 87(2)(b) away [Allegation D], causing § 87(2)(b) to hit his face against a wall. § 87(2)(b) sustained a cut on his lip and a chipped front tooth.

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on February 4, 2008 (Enclosure 7a-g). He filed a Notice of Claim on § 87(2)(b) (Enclosure 21.5a-b). He provided a telephone statement on April 10, 2008 (Enclosure 22e). He is a § 87(2)(b)-old black male, 5'11," 120 lbs., with black hair and brown eyes. § 87(2)(g)

On January 17, 2008, at approximately 7:30 PM, § 87(2)(b) purchased about three bags of marijuana from his "usual spot" in the Bronx, which he described as a location that is not visible to police officers. He had the marijuana in his hand and walked down Bronxwood Avenue in order to get to his girlfriend's house. His girlfriend lives on East 220<sup>th</sup> Street between Bronxwood Avenue and Barnes Avenue. He was not intoxicated or under the influence of an illegal drug at the time, although he admittedly had one or two beers between the hours of 5:00 PM and the time he left his house.

When § 87(2)(b) made a right off Bronxwood Avenue onto East 220<sup>th</sup> Street, he saw two uniformed officers in a marked police car. PO1 and PO2 immediately exited the car with their guns pointed directly at § 87(2)(b). PO1 was described as a white male with black hair, 5'9" to 5'10," 190 to 200 lbs., and may have had a goatee. PO2 was described as a white male with brown hair, 6'0" to 6'1," and about 175 lbs. The investigation identified PO1 as PO Michael Raso and PO2 as PO Gennaro Russo.

PO Raso and PO Russo did not say anything to him and § 87(2)(b) said nothing to them. § 87(2)(b) was "shocked" but kept walking and tossed the marijuana on the ground. He denied running but said he walked a little faster. He believed that PO Raso and PO Russo saw him do this because they placed him under arrest. § 87(2)(b) said that "everything" else at the scene was "cool." PO Raso and PO Russo transported him to the 47<sup>th</sup> Precinct stationhouse.

§ 87(2)(b) was signed in at the precinct desk and his money was vouchered. PO Raso then took § 87(2)(b) to a bathroom and instructed § 87(2)(b) to remove all of his clothing. § 87(2)(b) complied and was completely nude. PO Raso told § 87(2)(b) to turn around and bend down, and § 87(2)(b) turned around, placed his hands on the wall, and squatted. PO Raso told him again to bend down and § 87(2)(b) complied. However, when PO Raso told him to do it a third time, § 87(2)(b) told PO Raso, "I did it like two times already" and "I'm not doing it again." § 87(2)(b)'s hands remained on the wall when he said that and he denied making any physical contact with PO Raso at any point during the interaction. PO Raso grabbed § 87(2)(b)'s back and § 87(2)(b) asked, "What you doing?" PO Raso then grabbed § 87(2)(b) by the back of his head and slammed § 87(2)(b)'s face into the bathroom wall, face first. § 87(2)(b) looked down and saw one of his teeth lying on the ground. § 87(2)(b)

§ 87(2) started arguing with PO Raso, saying, “You just knocked my tooth out! Why you did that for?” His mouth was bleeding and his bottom lip was busted. § 87(2)(b) was mad and “was yelling a little bit” but could not remember what PO Raso said back to him. Nothing was recovered from § 87(2)(b) during the strip-search. By then there were three uniformed officers standing there laughing at § 87(2)(b). PO Raso was also laughing. § 87(2)(b) described one of those officers as a dark-skinned Hispanic male. He could not describe the other two officers. The investigation determined that PO Russo and Sgt. Thomas Casey were observing the strip-search. When he filed a Notice of Claim on § 87(2)(b), § 87(2)(b) stated that multiple members of the NYPD struck him and used excessive force at the stationhouse.

PO Raso instructed § 87(2)(b) to put his clothes back on and told the three officers to throw § 87(2)(b)'s tooth away. § 87(2)(b) did not see an officer throw the tooth away and did not know what happened to his tooth. He has never had a cavity or any problems with his teeth. He did not have a bridge, cap, partial, or a gold front on the tooth before it was knocked out.

He was then taken to a holding cell and about fifteen minutes later an ambulance arrived at the precinct. § 87(2)(b) told an EMT what happened but the EMT just “look[ed] at me funny like they’re scared or something.” The EMT asked § 87(2)(b) if he wanted to go to the hospital and § 87(2)(b) said that he did. PO Raso told § 87(2)(b) and the EMT that § 87(2)(b) needed to see a dentist and if § 87(2)(b) goes to the hospital he would only be in jail for a longer amount of time. The ambulance left without taking § 87(2)(b) to the hospital. According to the ambulance call report (ACR), § 87(2)(b) was complaining of pain to his mouth due to being pushed into a wall (Enclosure 16a-d).

§ 87(2)(b) then went to Bronx Central Booking. He did not see a medical professional there. He was also charged with § 87(2)(b) and he believes that PO Raso will say that § 87(2)(b) assaulted PO Raso first. § 87(2)(b) was released on his own recognizance and his court case was scheduled for § 87(2)(b) 8. At the time of his interview, § 87(2)(b) indicated that he planned to plead not guilty to § 87(2)(b) § 87(2)(b).

§ 87(2)(b) received medical treatment at § 87(2)(b) on § 87(2)(b), because he wanted to be evaluated for on and off headache and back pain after a police officer, one week prior, slammed his head to the wall during a search. When he appeared at the CCRB for interview on February 4, 2008, § 87(2)(b) was missing his top right front tooth (Enclosure 7d-e). However, when he filed a Notice of Claim on § 87(2)(b), § 87(2)(b) stated that he lost half of a tooth, not an entire tooth.

When § 87(2)(b) provided a phone statement on April 10, 2008, he said that ever since his January 17, 2008 arrest, PO Raso and PO Russo, as well as a plainclothes detective named Williams, have been harassing him. § 87(2)(b) had since been stopped at least four times for no reason. Because § 87(2)(b) alleged harassment, that portion of his complaint was referred to IAB under Log #08-15998.

### **Results of Investigation**

**EMT § 87(2)(b) and EMT § 87(2)(b)**

The ambulance call report (ACR) indicated that EMT § 87(2)(b) and EMT § 87(2)(b) responded to the 47<sup>th</sup> Precinct stationhouse in regards to § 87(2)(b) (Enclosure 16b). The EMTs were subpoenaed to appear at the CCRB for interview on April 2, 2008; however, neither EMT appeared. A second subpoena was sent on April 7, 2008, requesting they appear at the CCRB on April 24, 2008.

EMT § 87(2)(b) contacted the CCRB on April 8, 2008, and stated that he did not recall the incident (Enclosure 22e). EMT § 87(2)(b) was driving that evening so EMT § 87(2)(b) was recording the patient interviews. EMT § 87(2)(b) reviewed the ACR and contacted the CCRB on April 23, 2008. He did not recall the incident and stated that if § 87(2)(b) had lost a tooth, it would have been noted in the ACR.

EMT § 87(2)(b) also contacted the CCRB on April 8, 2008, and stated that he did not recall the incident (Enclosure 22d). EMT § 87(2)(b) reviewed the ACR and contacted the CCRB again on April 9, 2008. He did not recall if § 87(2)(b) was missing a tooth or had a broken tooth.

## Identification of Officers Interviewed

According to § 87(2)(b)'s arrest report, he was arrested by PO Raso (Enclosure 10a-b). Roll call from the 47<sup>th</sup> Precinct indicates that PO Raso and PO Russo were assigned to tour two anti-crime on January 17, 2008 (Enclosure 20a-r). § 87(2)(b)'s command log entry indicates that a strip-search was authorized by Sgt. Thomas Casey (Enclosure 18). Roll call from the 47<sup>th</sup> Precinct also indicates that Sgt. Casey was working tour two on January 17, 2008.

### Officer Statements

#### **PO Michael Raso**

Complaint report (Enclosure 9a-b) and arrest report (Enclosure 10a-b): At 7:40 PM on January 17, 2008, PO Raso observed § 87(2)(b) with seven clear plastic bags of marijuana in plain view. When PO Raso attempted to arrest § 87(2)(b), § 87(2)(b) ran from PO Raso and flailed his arms in order to prevent being handcuffed. During his strip-search, § 87(2)(b) swung at PO Raso with a closed fist and attempted to head-butt PO Raso, in an attempt to prevent PO Raso from performing a strip-search. A bag of marijuana was recovered from his left sock and another bag from his buttocks. He was apparently intoxicated. § 87(2)(b) was arrested for § 87(2)(b).

PO Raso was interviewed at the CCRB on September 11, 2008 and October 30, 2008 (Enclosures 11a-c and 12a-b). Since this incident PO Raso was promoted to sergeant; however, he will be referred to as "PO" throughout the report. On January 17, 2008, he worked the hours of 9:30 AM until 2:45 AM the following day and was assigned to Impact Overtime. He was partnered with PO Gennaro Russo, was dressed in uniform, and was assigned to a marked vehicle. PO Raso is a § 87(2)(b)-old white male, 5'8," 195 lbs., with brown hair and brown eyes. His memo book states that at 7:55 PM he had an arrest at Bronxwood Avenue and East 220<sup>th</sup> Street (Enclosure 8a-b).

At approximately 7:30 PM, on January 17, 2008, PO Raso was driving eastbound on East 219<sup>th</sup> Street in the Bronx, towards Bronxwood Avenue. This area is a "highly drug-prone location." As PO Raso drove up to the corner of East 219<sup>th</sup> Street and Bronxwood Avenue, he looked to his left and saw a male § 87(2)(b) walking around the corner of East 220<sup>th</sup> Street and Bronxwood Avenue. When § 87(2)(b) saw PO Raso and PO Russo's RMP, § 87(2)(b) stopped, turned the opposite direction, and walked back around the corner of East 220<sup>th</sup> Street and Bronxwood Avenue.

In order to investigate this and conduct a "common law right to inquiry," PO Raso turned left onto Bronxwood Avenue and made another left onto East 220<sup>th</sup> Street. § 87(2)(b) was walking away from the RMP. PO Raso pulled up next to § 87(2)(b) and parked the car. § 87(2)(b) had turned away from PO Raso and PO Russo could not see § 87(2)(b)'s hands. PO Raso did not indicate what he thought § 87(2)(b) was doing. PO Raso then exited his vehicle with his firearm drawn and pointed at § 87(2)(b). PO Raso had his gun pointed at § 87(2)(b) for approximately five seconds. PO Russo also exited the car but did not draw his firearm. When PO Raso said, "Police," § 87(2)(b) dropped to the ground what appeared to be a few bags of marijuana and started running eastbound on East 220<sup>th</sup> Street, back towards Bronxwood Avenue.

PO Raso and PO Russo chased § 87(2)(b) for about twenty yards. PO Raso holstered his gun while chasing § 87(2)(b). PO Raso was yelling at § 87(2)(b) "Police, stop!" during the chase. PO Raso caught § 87(2)(b) by the time they reached the corner of East 220<sup>th</sup> Street and Bronxwood Avenue. PO Raso grabbed § 87(2)(b) and both of them fell into the street. As they fell, § 87(2)(b) was trying to stuff his hands in his pants. While § 87(2)(b) was on the ground, PO Raso tried to grab his hands but he was flailing his arms in order to prevent PO Raso from handcuffing him. § 87(2)(b) was wearing a jacket and he was putting his hands down the back of his pants. PO Raso thought § 87(2)(b) was putting marijuana in his pants. PO Russo assisted PO Raso in grabbing § 87(2)(b)'s arms to put them behind his back. Once § 87(2)(b) was under control, PO Raso realized that there was at least one bag of marijuana underneath § 87(2)(b) that had fallen out of § 87(2)(b)'s clothing. PO Raso gathered the bags and placed § 87(2)(b) in their RMP.

After placing § 87(2)(b) in custody, PO Raso recognized him as a drug dealer in the neighborhood. PO Raso did not remember his name. PO Raso stated that he dealt with § 87(2)(b) about a year prior, when PO Raso's then-partner arrested § 87(2)(b) about seven blocks from East 220<sup>th</sup> Street and Bronxwood Avenue. § 87(2)(b) never indicated to PO Raso that he recognized PO Raso. PO Raso went back to the location where he first tried to stop § 87(2)(b) and found between one and seven bags of marijuana on the ground.

§ 87(2)(b) was transported to the 47<sup>th</sup> Precinct stationhouse where Sgt. Thomas Casey authorized § 87(2)(b)'s strip-search. PO Raso and PO Russo brought § 87(2)(b) back into a bathroom in the holding cell area. The bathroom was private and no other prisoners were around to view the search. PO Russo and Sgt. Casey were standing in the doorway while § 87(2)(b) was strip-searched. § 87(2)(b)'s handcuffs were removed so he could remove his own clothes. PO Raso searched all of § 87(2)(b)'s clothing and a bag of marijuana was recovered from one of § 87(2)(b)'s socks.

PO Raso allowed § 87(2)(b) to put his socks back on so he would not have to stand on the dirty floor. PO Raso then asked § 87(2)(b) to spread his buttocks with his hands and squat. PO Raso explained that squatting relaxes the muscles and allows anything else hidden on a person to "fall out." § 87(2)(b) who was facing a wall, squatted a little but not in a manner that would release anything from the buttocks, if anything was hidden there. § 87(2)(b) said, "This is gay ass shit." PO Raso told § 87(2)(b) that there would not be an additional charge if there was more marijuana on him. § 87(2)(b) was still facing the wall and was facing away from PO Raso; however, at that point he turned around and swung at PO Raso. PO Raso backed up and out of the way. PO Raso grabbed § 87(2)(b) and turned § 87(2)(b) away from him. § 87(2)(b) then pushed off the wall and threw his head back at PO Raso. PO Raso was able to stop § 87(2)(b) with his hands and push § 87(2)(b) away. § 87(2)(b) fell forward and hit his face against the wall. This caused § 87(2)(b) to sustain an abrasion to his lip with minor bleeding and a chip to one of his front teeth. The entire tooth was not missing and PO Raso believed the tooth was chipped during this incident and was not a pre-existing chip. PO Raso looked for the piece of the tooth but did not find it. The struggle was so quick that PO Russo and Sgt. Casey did not intervene.

PO Raso brought § 87(2)(b)'s hands behind his back and § 87(2)(b) relaxed. Sometime during the struggle, a bag of marijuana fell from § 87(2)(b)'s buttocks. In reference to his chipped tooth § 87(2)(b) said, "How am I gonna get bitches?" He also said, "I have to leave the New York scene for a while." § 87(2)(b) got dressed and PO Raso put § 87(2)(b) into a holding cell. PO Raso called 911 and EMS responded to the stationhouse. EMS told § 87(2)(b) to go to the dentist after he got out because there was nothing they could do for him there or at a hospital.

## **PO Gennaro Russo**

PO Russo was interviewed at the CCRB on October 30, 2008 (Enclosure 14a-b). On January 17, 2008, PO Russo was assigned to the Impact Overtime and worked from 6:10 PM until 2:45 AM. He was dressed in uniform and was partnered with PO Raso. PO Russo was the recorder and PO Raso was the driver. PO Russo is a § 87(2)(b)-old white male, 6'1," 210 lbs., with brown hair and hazel eyes. He had no memo book entries regarding this incident (Enclosure 13a-b).

On January 17, 2008, at approximately 7:30 PM, PO Russo and PO Raso were driving Eastbound on 219<sup>th</sup> Street in the Bronx. When PO Raso made a left onto Bronxwood Avenue, he observed a male § 87(2)(b) with his hands in his pockets. § 87(2)(b) was walking southbound on Bronxwood Avenue, toward the officers. At the sight of the officers, § 87(2)(b) changed directions and began walking westbound on 220<sup>th</sup> Street. The officers pulled up alongside § 87(2)(b) so that the driver's side of their vehicle was closest to § 87(2)(b). PO Russo and PO Raso identified themselves and asked § 87(2)(b) what he was doing. § 87(2)(b) then began running down the sidewalk.

PO Russo and PO Raso exited the vehicle and chased him. PO Russo did not have his firearm out or pointed at § 87(2)(b) and he did not observe PO Raso with his gun out or pointed at § 87(2)(b). During the chase, PO Raso ordered § 87(2)(b) to stop several times. After approximately thirty feet, PO Raso was able to grab § 87(2)(b)'s collar and PO Raso tackled § 87(2)(b) to the ground. They were approximately ten feet ahead of PO Russo at that point. PO Raso and § 87(2)(b) were in the street, not on the sidewalk, when they went to the

ground. § 87(2)(b) was lying on his stomach and PO Raso was lying on top of him. § 87(2)(b) was flailing his arms and kicking his legs. When PO Russo approached them, PO Russo and PO Raso were able to handcuff § 87(2)(b). Once § 87(2)(b) was in handcuffs, the officers saw that an unknown quantity of marijuana had fallen off of § 87(2)(b)'s person during the incident. PO Raso informed PO Russo that he observed § 87(2)(b) stuffing something down his pants during the struggle.

§ 87(2)(b) was transported to the 47<sup>th</sup> Precinct stationhouse. Because § 87(2)(b) was in possession of marijuana and because PO Raso saw § 87(2)(b) stuff something down his pants, PO Raso and PO Russo asked Sgt. Thomas Casey to supervise a strip-search of § 87(2)(b). The strip-search was conducted in a bathroom in the cell area of the stationhouse. § 87(2)(b) was not handcuffed during the strip-search. PO Raso conducted the search while PO Russo and Sgt. Casey stood in the doorway, watching. PO Raso instructed § 87(2)(b) to slowly remove each article of clothing, and those articles of clothing were subsequently searched. Marijuana was found in § 87(2)(b)'s socks. Up until that point, § 87(2)(b) was behaving lethargically and was somewhat uncooperative.

PO Raso then instructed § 87(2)(b) to pull his underwear down to his knees, to squat, and to spread his buttocks. § 87(2)(b) told PO Raso, "That's some gay shit." § 87(2)(b) lowered his underwear only halfway down his buttocks. § 87(2)(b) then turned to his left and cocked his arm as though to strike PO Raso. PO Raso shoved § 87(2)(b) by his shoulders against the wall, so that § 87(2)(b) was facing the wall. § 87(2)(b) then pushed off of the wall and tried to strike PO Raso by swinging his head backward. PO Raso pushed § 87(2)(b)'s back toward the wall and § 87(2)(b) struck his face against the wall, which caused him to chip his tooth and bleed from his mouth. Approximately half of § 87(2)(b)'s tooth was chipped, not the entire tooth. The struggle lasted for no more than fifteen seconds. PO Russo and Sgt. Casey assisted PO Raso in subduing and handcuffing § 87(2)(b). § 87(2)(b) to remark, "Aw, my tooth," and, "How am I supposed to get girls?" An ambulance was called to the stationhouse. PO Russo was informed by PO Raso that § 87(2)(b) refused medical attention.

#### **Sgt. Thomas Casey**

Sgt. Casey was interviewed at the CCRB on October 30, 2008 (Enclosure 15a-b). On January 17, 2008, he was supervising Impact Overtime and worked from 5:00 PM until 2:00 AM. He was dressed in uniform and was working with PO Williams. He is a § 87(2)(b)-old white male, 5'11," 195 lbs., with brown hair and brown eyes. Sgt. Casey had no memo book entries regarding the incident but he failed to provide the CCRB with copies of his memo book.

On January 17, 2008, at 7:50 PM, Sgt. Casey was at the 47<sup>th</sup> Precinct stationhouse as per the request of PO Raso. While arresting § 87(2)(b) a fight had broken out and narcotics were found on § 87(2)(b). Sgt. Casey was not present at the scene of the arrest and only encountered § 87(2)(b) at the 47<sup>th</sup> Precinct stationhouse. At the stationhouse, § 87(2)(b) was talking a lot, "running his mouth," and was being uncooperative. Sgt. Casey authorized a strip-search of § 87(2)(b). PO Raso executed the strip-search in a bathroom adjacent to the cell area. Sgt. Casey and PO Russo observed the strip-search. They were approximately four or five feet from § 87(2)(b) standing over § 87(2)(b)'s right shoulder, in the doorway to the room.

Early on in the strip-search PO Raso discovered marijuana in § 87(2)(b)'s sock. When PO Raso requested that § 87(2)(b) squat down, he began to comply and then stood back up after only completing a half squat. Sgt. Casey did not recall if PO Raso ever asked § 87(2)(b) to spread his buttocks. At that point § 87(2)(b) turned around and attempted to punch PO Raso with a closed fist. PO Raso pushed § 87(2)(b) against the wall. § 87(2)(b) then pushed off of the wall and tried to head butt PO Raso in the face. PO Raso pushed § 87(2)(b) against the wall again and was able to subdue him. Sgt. Casey stated that § 87(2)(b) not wearing a shirt, but did not recall exactly what else § 87(2)(b) was wearing. Sgt. Casey never intervened in this exchange. More marijuana was discovered after § 87(2)(b) was subdued, but Sgt. Casey did not indicate where the marijuana was found.

As a result of this exchange in the bathroom area, § 87(2)(b) sustained a bloody lip and a chipped tooth. Sgt. Casey was not able to say how much of his tooth was chipped, except that a substantial piece of the tooth did appear to be intact. Sgt. Casey called for EMS, noted the incident in the log book, and returned to patrol.

## **Medical Records**

The ambulance call report (ACR) pertaining to the treatment of § 87(2)(b) indicates that an ambulance arrived at the 47<sup>th</sup> Precinct stationhouse at 8:39 PM on January 17, 2008 (Enclosure 16a-d). A physical examination revealed a minor abrasion to the mouth that had stopped bleeding prior to the crew's arrival. § 87(2)(b) refused to be taken to the hospital. The cause of § 87(2)(b)'s injury was checked as "fight/assault" and the presumptive diagnosis was soft issue injury to the face. The ambulance left the stationhouse at 9:08 PM.

§ 87(2)(b) arrived as a walk-in at the § 87(2)(b) ER at 8:25 AM on § 87(2)(b) (Enclosure 17a-n). § 87(2)(b) was triaged at 8:45 AM and a physical exam showed no pain or vomiting at present and he appeared to be in no obvious discomfort. In the section labeled "MD Chart," § 87(2)(b) was noted to have had a gradual onset of intermittent, mild frontal headache. § 87(2)(b) described the pain as mild, non-radiating, and now improved. § 87(2)(b) also chipped his first upper right tooth. A physical examination of § 87(2)(b) showed a broken right first upper tooth and no loose teeth. There was no swelling on or tenderness to his head. The doctor, § 87(2)(b), counseled § 87(2)(b) regarding his diagnosis of mild head trauma and a broken tooth.

## **Police Documents**

### **Arrest Photograph (Enclosure 7c)**

§ 87(2)(b)'s arrest photograph shows no apparent injuries to his mouth. § 87(2)(b)'s mouth is closed in the photograph.

### **Command Log (Enclosure 18)**

The 47<sup>th</sup> Precinct command log indicates that § 87(2)(b) was logged in at 7:50 PM. He was arrested by PO Raso at 7:40 PM at East 220<sup>th</sup> Street and Bronxwood. Sgt. Casey authorized a strip-search of § 87(2)(b). It is noted that § 87(2)(b) was apparently intoxicated and had a bloody lip. He was transported to Bronx Central Booking at 3:25 AM.

### **Property Vouchers (Enclosure 19)**

§ 87(2)(b)'s property voucher shows that he possessed ten \$20 bills at the time of his arrest.

### **Notice of Claim and 50h Hearing (Enclosure 21.5a-b)**

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim in which he requested \$1,000,000. § 87(2)(b) had a 50h hearing on § 87(2)(b). Messages were left for § 87(2)(b)'s civil attorney, § 87(2)(b), on February 17, 2009 and February 19, 2009; however, the status of the 50h hearing is unknown.

### **Status of Criminal Charges (Enclosure 21k-l)**

§ 87(2)(b) is due for trial on § 87(2)(b), in regard to his January 17, 2008 arrest.

### **Complainant's Criminal Conviction History (Enclosure 21a-o)**

§ 87(2)(b)

§ 87(2)(b)

#### **Complainant's CCRB History (Enclosure 4)**

This is § 87(2)(b)'s first complaint with the CCRB.

#### **Officers' CCRB History (Enclosures 2a-b and 3a-b)**

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) Sgt. Casey, an eleven-year member of the NYPD, has been the subject of the following substantiated allegations. In CCRB case 200614022, the Board recommended charges when it substantiated allegations of a frisk and a vehicle search against Sgt. Casey. The NYPD was unable to prosecute the case and thus Sgt. Casey was not disciplined. In CCRB case 200704005, the Board recommended charges when it substantiated allegations of a frisk and search against Sgt. Casey. The NYPD disposition is pending. § 87(4-b), § 87(2)(g)

### **Conclusions and Recommendations**

#### **Identification of Subject Officers**

§ 87(2)(b) said that both officers pointed their guns at him; however, PO Russo denied pointing his gun and PO Raso stated that PO Russo did not point his gun at § 87(2)(b). PO Raso admittedly stopped § 87(2)(b) and pointed his gun at § 87(2)(b). § 87(2)(g) Sgt. Casey confirmed that he authorized the strip-search of § 87(2)(b) at the stationhouse § 87(2)(g). PO Raso also admitted to using force against § 87(2)(b) at the stationhouse § 87(2)(g).

#### **Undisputed Facts**

On January 17, 2008, § 87(2)(b) was walking in the vicinity of East 220<sup>th</sup> Street and Bronxwood Avenue in the Bronx when PO Raso stopped § 87(2)(b) and pointed his gun at § 87(2)(b). At some point § 87(2)(b) dropped an unknown amount of marijuana on the ground. § 87(2)(b) was arrested for § 87(2)(b). § 87(2)(b) was transported to the 47<sup>th</sup> Precinct stationhouse for arrest processing. Sgt. Casey authorized a strip-search of § 87(2)(b) and PO Raso conducted the strip-search. § 87(2)(b) was not cooperative during the strip-search and a brief struggle ensued between him and PO Raso.

#### **Facts in Dispute**

§ 87(2)(g)

#### **Assessment of Evidence**

§ 87(2)(b) stated that when he turned onto East 220<sup>th</sup> Street from Bronxwood Avenue, he saw PO Raso and PO Russo in a marked police car. § 87(2)(b) alleged that PO Raso and PO Russo immediately exited their car with their guns pointed at him. Neither officer said anything to him. Because § 87(2)(b) admittedly had marijuana in his hand, he then tossed it on the ground and began walking away. PO Raso saw § 87(2)(b) change directions at the sight of the RMP. It was unclear if PO Russo observed that or if PO Raso informed PO Russo of what he saw. § 87(2)(g)

§ 87(2)(b) PO Raso wanted to "investigate" this so he drove over, pulled up, and parked next to § 87(2)(b) who was walking away from the RMP. PO Raso stated that because he could not see § 87(2)(b)'s hands, he exited the RMP with his firearm pointed at § 87(2)(b). PO Raso did not indicate that he feared for his safety or



that he believed § 87(2)(b) was armed. PO Raso confirmed that PO Russo did not have his [PO Russo's] gun out. After PO Raso said, "Police," § 87(2)(b) dropped some bags of marijuana to the ground and began running. According to PO Russo, before he and PO Raso exited the car they identified themselves and asked § 87(2)(b) what he was doing. PO Russo then claimed that § 87(2)(b) began running away and so he and PO Raso exited the RMP and began chasing him. According to PO Russo, neither officer had their guns out and pointed at § 87(2)(g)

It is not disputed that § 87(2)(b) was strip-searched at the 47<sup>th</sup> Precinct stationhouse. At the arrest scene, § 87(2)(b) tossed an unknown quantity of marijuana and PO Raso saw § 87(2)(b) put something down the back of his pants, which PO Russo stated that PO Raso told him. Sgt. Casey authorized the strip-search because marijuana was recovered from § 87(2)(b) during his arrest. Sgt. Casey noted the strip-search in the command log. § 87(2)(g)

§ 87(2)(b) was admittedly uncooperative during the strip-search when he refused to follow PO Raso's instructions to squat for a third time. § 87(2)(b) alleged that PO Raso then grabbed § 87(2)(b) by the back of his head and slammed § 87(2)(b)'s face into the wall. § 87(2)(b) claimed that it caused his top right front tooth to fall out and onto the floor. His bottom lip was also busted. Although the ACR documented the cut lip, neither the ACR nor the medical records from § 87(2)(b) indicated that § 87(2)(b)'s entire tooth was knocked out. However, his statement on his Notice of Claim corroborates the officers' accounts of the incident in that part of the tooth was chipped. § 87(2)(b) also claimed that nothing was recovered from him during the strip-search. The officers' account of the struggle is more plausible than § 87(2)(b)'s account. PO Raso, PO Russo, and Sgt. Casey's statements indicate that § 87(2)(b) was not entirely forthcoming. PO Raso conducted the search while PO Russo and Sgt. Casey observed. The three officers described § 87(2)(b) as uncooperative because § 87(2)(b) would not follow PO Raso's instructions to squat. § 87(2)(b) was facing a wall at that time and PO Raso was behind him. According to PO Raso, PO Russo, and Sgt. Casey, § 87(2)(b) turned around attempted to punch PO Raso. PO Raso was not hit and reacted by grabbing § 87(2)(b) and turning § 87(2)(b) away from him, so § 87(2)(b) was facing the wall again. According to PO Raso, PO Russo, and Sgt. Casey, § 87(2)(b) then pushed off the wall and threw his head back at PO Raso in another attempt to hit PO Raso. PO Raso stopped § 87(2)(b) and pushed § 87(2)(b)'s back toward the wall. This caused § 87(2)(b)'s face to hit the wall. One of § 87(2)(b)'s front teeth was chipped and his lip was bleeding. PO Raso, PO Russo, and Sgt. Casey denied that § 87(2)(b)'s entire tooth fell out. Additional marijuana was recovered from § 87(2)(b)'s sock and after the struggle, additional marijuana was found on the floor. Therefore, it appears that § 87(2)(b) was not forthcoming about his own actions, actions which precipitated PO Raso's use of force, and the fact that additional marijuana was recovered during the search.

### **Allegation Not Pleaded**

Although § 87(2)(b) alleged that PO Russo also participated in the stop and pointed his gun at him, those allegations are not being pleaded against him because PO Raso took responsibility for the stop and pointing the gun.

**Allegation A: PO Michael Raso pointed his gun at § 87(2)(b) in the vicinity of East 220<sup>th</sup> Street and Bronxwood Avenue in the Bronx.**

**Allegation B: PO Michael Raso stopped § 87(2)(b) in the vicinity of East 220<sup>th</sup> Street and Bronxwood Avenue in the Bronx.**

PO Raso admitted to pointing his gun at § 87(2)(b) and then saying, "Police." PO Raso and § 87(2)(b) confirmed that no questions were asked of § 87(2)(b) and no orders were given prior to PO Raso pointing his gun. § 87(2)(g)

Kamins' *New York Search and Seizure* also states, "Before a person may be stopped in a public place, the officer must have a reasonable suspicion that the person is committing, has committed, or is about to commit a crime"

(Enclosure 1a-b). It further says that an “officer can draw his weapon to effect a stop and can take the reasonable self-protective measures to ensure his safety and neutralize the threat of physical harm.” § 87(2)(g)

**Allegation C: Sgt. Thomas Casey authorized the strip-search of § 87(2)(b)**

§ 87(2)(b) alleged that he was strip-searched at the 47<sup>th</sup> Precinct stationhouse. According to the NYPD Finest Message dated May 13, 2004, a supervisor can authorize a strip-search only when the arresting officer “has articulated a reasonable suspicion, beyond probable cause for the arrest, that the individual is concealing contraband” (Enclosure 1f). § 87(2)(g)

**Allegation D: PO Michael Raso used force against § 87(2)(b) at the 47<sup>th</sup> Precinct stationhouse.**

§ 87(2)(b) alleged that during his strip-search, PO Raso grabbed him by the back of the head and slammed his face into the wall. § 87(2)(b) claimed that as a result, he sustained a busted lip and his top right front tooth fell out. § 87(2)(g)

According to PO Raso, PO Russo, and Sgt. Casey, § 87(2)(b) tried to punch PO Raso and then tried to hit PO Raso with the back of his head. The officers stated that when PO Raso pushed § 87(2)(b) to prevent being struck, § 87(2)(b) hit his face against the wall, chipped his tooth, and sustained a cut lip. § 87(2)(g)

Investigator:

Hilary Hudson Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: